

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	
	:	01cr00307-3 (DLC)
-v-	:	
	:	<u>ORDER</u>
OCTAVIO FRIAS,	:	
	:	
Defendant.	:	
	:	
-----X	:	

DENISE COTE, District Judge:

Octavio Frias has brought a motion for reconsideration of a denial of his renewed motion for compassionate release. For the following reasons, the Government will be given an opportunity to respond to this motion.

This prosecution and the recent motion practice is summarized as follows. On March 12, 2003, Frias was convicted at trial of committing murder while engaged in a conspiracy to distribute one kilogram or more of heroin and five kilograms or more of cocaine. Frias had participated in the premeditated contract killing of the co-owner of a Manhattan restaurant and club which operated a large-scale narcotics and gambling operation. Frias was the night manager, coordinated the hiring of the contract killers and identified the victim for the killers. The Honorable John F. Keenan sentenced Frias to life imprisonment on July 1, 2004. Following remand from the Court of Appeals, Judge Keenan again imposed a sentence of life

imprisonment on January 4, 2006. That sentence was affirmed on appeal.

On August 11, 2020, Frias filed a motion for compassionate release due to his medical condition. Following full briefing, Judge Keenan denied the motion on October 14, 2020.

On June 8, 2022, Frias brought another motion for compassionate release. Judge Keenan treated the renewed motion as a motion for reconsideration and denied it on August 26. In a filing of September 27, Frias argues that Judge Keenan erred in his August 26 decision by treating the June 8 filing as a motion for reconsideration when it should have been treated as a second motion for compassionate release supported by additional arguments. This case was reassigned to this Court on October 4, 2022.

The June 8 motion argued that a resentencing was warranted for five reasons: that his record in prison over his twenty-three years of incarceration demonstrates that he is rehabilitated; that he has maintained close relationships with family and friends despite his incarceration; that others guilty of murder and even terrorism have received lower sentences or been given compassionate release, thereby creating unwarranted disparity in denying him compassionate release; that he would not receive a sentence of life if sentenced for the first time today; and, that his medical condition makes him particularly


vulnerable during his time of imprisonment. The Court will review the June 8 motion de novo and allow the Government to be heard. Accordingly, it is hereby

ORDERED that the Government shall file a response to the June 8 motion by **February 10, 2023**. Frias may file a reply by **March 24, 2023**.

IT IS FURTHER ORDERED that the Clerk of Court shall mail Frias a copy of this Order and note mailing on the docket.

SO ORDERED:

Dated: New York, New York  
December 16, 2022

  
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DENISE COTE  
United States District Judge